

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]
D [REDACTED]

Reg. No.: 201263290
Issue No.: 1022; 2015; 3014
Case No.: [REDACTED]
Hearing Date: August 9, 2012
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 9, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's daughter. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Specialist, and [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits, deny Claimant's Family Independence Program (FIP) application, and close the Medical Assistance (MA) cases for three of Claimant's minor children, based on information on its system that those three children had been removed by Child Protective Services (CPS) and were no longer in Claimant's household?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for FIP benefits on June 15, 2012, identifying her household as consisting of herself and her four children, [REDACTED].
2. Claimant was an ongoing recipient of FAP benefits for a FAP group size of six.

3. Claimant and each of her four children received MA coverage.
4. In processing the FIP application, the Department learned from its system that three of Claimant's children had been removed from her home by Child Protective Services (CPS) and placed in foster care.
5. Based on its conclusion that the three children were no longer in the household, the Department sent Claimant a July 3, 2012, Notice of Case Action denying her FIP application, reducing her FAP benefits, and closing the MA cases of the children who were no longer in the household.
6. On July 9, 2012, Claimant filed a request for hearing, disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA

program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, in a July 3, 2012, Notice of Case Action, the Department denied Claimant's FIP application, reduced her FAP benefits, and closed the MA cases for three of her four children.

FIP Application

A FIP certified group may be composed of a legal parent of a dependent child in an out-of-home foster care placement due to abuse and/or neglect when there is a plan to return the child to the parent's home. BEM 210. However, recipients of Supplemental Security Income (SSI) are not eligible to be FIP certified group members. BEM 210.

In this case, the Department testified that it denied Claimant's June 15, 2012, FIP application because, in the course of processing the application, it became aware that three of Claimant's children, ten-year-old [REDACTED], nine-year-old [REDACTED], and seven-year-old [REDACTED] were removed from Claimant's care on June 28, 2012, by CPS and placed in foster care, and because Claimant and one-year-old [REDACTED], the remaining household members, received SSI. These facts would support the Department's denial **if** the children were in fact removed from Claimant's home.

However, the evidence presented in this case did not support the Department's conclusion the children were removed from Claimant's care on June 28, 2012. The Department testified that it relied on the information on its system which interfaced with information inputted by CPS. However, the information the Department retrieved concerning CPS action in this case was inconsistent, with one screen indicating that the children at issue had been removed on March 1, 2009 and other screens showing a June 28, 2012, removal date. Also, the screens showed that one-year-old [REDACTED] was not removed with her siblings on June 28, 2012, a situation that seems unlikely.

The Department worker testified that she spoke to Claimant to inform her of the information in its system indicating that the children had been removed from her care, and Claimant informed her that, contrary to the information in the Department's system, [REDACTED] had not been removed from her care, that they continued to be members of her household, and that she continued to care for them. Claimant's adult daughter also testified at the hearing that the children continued to be in Claimant's care.

The Department worker testified that, when she spoke to Claimant prior to denying her FIP application, she advised Claimant to further investigate, and she would do the same. Claimant credibly testified that she called the 1-800 number provided by the Department concerning children's neglect cases, the only source she was aware she could pursue, but could not get any information. The Department must tell a client what verification is required, how to obtain it, and the due date. BAM 130. Furthermore, while a client must obtain required verification, the Department must assist if the client needs and requests help. BEM 130.

In this case, the Department did not identify what information it required Claimant to obtain to verify that the children continued to be in her care. Further, because CPS and Foster Care are part of the Department's services, one would assume that the Department would be in a better position to get verification from those sources than Claimant, but the Department testified that it attempted to contact CPS at the same number as Claimant and, like Claimant, could not get any information concerning Claimant's case. Under the circumstances in this case, the Department did not act in accordance with Department policy when it denied Claimant's FIP application on the basis of the three children's removal without further investigating the situation.

FAP Benefits

Parents and their children who live together must be in the same FAP group. BEM 212. In this case, the Department concluded that, based on information in its system, which the Department testified interfaced with information provided by CPS, three of Claimant's children were removed from Claimant's household on June 28, 2012. Based on this information, and confirmation that Claimant's husband was incarcerated and no longer in the FAP group, the Department recalculated Claimant's FAP budget based on a group size of two (consisting of Claimant and her one-year-old [REDACTED]) from a previous group size of six and reduced Claimant's monthly FAP benefits from \$723 to \$325 effective August 1, 2012.

While the children who did not live with Claimant could not be a part of her FAP group, as discussed above, Claimant informed the Department that its information was incorrect and that the three children at issue continued to be in her care. When primary caretaker status is questionable or disputed, the Department should give the caretaker the opportunity to provide evidence to support her claim. BEM 212. In this case, Claimant credibly testified that the Department worker called her on July 3, 2012, to advise her of the information on its system, and, although she advised Claimant to seek information from CPS or Foster Care, she issued a Notice of Case Action that same day reducing Claimant's FAP benefits. By failing to give Claimant the opportunity to respond to the issue of the children's placement, the Department did not act in accordance with Department policy. Furthermore, as discussed above, Claimant would likely need the Department's assistance to obtain required verifications in this matter.

MA Coverage

The Department explained that MA cases for [REDACTED] were closed effective August 1, 2012, because the children were no longer members of

Claimant's household and were receiving medical coverage provided for foster care children. Department wards are automatically eligible for Group 1 MA, and court wards may be eligible under other MA categories. BEM 117.

In this case, the Department failed to establish that the children were no longer in Claimant's household. Furthermore, the Department presented no evidence to support its testimony that the children continued to receive MA coverage from another source. Thus, the Department did not satisfy its burden of showing that it acted in accordance with Department policy with respect to closing the MA cases for [REDACTED]

DECISION AND ORDER


The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when .
 did not act properly when denying Claimant's FIP application, reducing Claimant's FAP benefits, and closing the MA cases for the three children at issue.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's June 15, 2012, FIP application;
2. Reprocess the application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for FIP benefits she was eligible to receive, but did not from June 15, 2012, ongoing;
4. Recalculate Claimant's FAP benefits for August 1, 2012, ongoing in accordance with Department policy and consistent with this Hearing Decision;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 1, 2012, ongoing;
6. Reinstate MA coverage for Claimant's children, [REDACTED], as of August 1, 2012; and
7. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 21, 2012

Date Mailed: August 21, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

